

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION**

UNITED STATES OF AMERICA

PLAINTIFF

VS.

4:13-CR-00036-BRW/JTR

JAMES WELDON KING

DEFENDANT

ORDER

The Prosecution's Motion for Stay of Release pending review of the Magistrate Judge's Order was denied in an on-the-record telephone conference yesterday afternoon.¹

A *de novo* hearing on the Motion for Review and Revocation of Release Order is set for tomorrow, February 13, 2013, at 2:30 p.m.

I will consider only the evidence presented to Magistrate Judge Ray yesterday (I will listen to the tape of the hearing and review the exhibits).

If the prosecution has new evidence, it should petition for a new hearing before Magistrate Ray.

As I understand the law, when a district judge is reviewing a magistrate judge's order, the district judge conducts a *de novo* review and makes its own determination of the facts.

I am familiar with section 3142(g) of the Bail Reform Act of 1984, which sets forth the factors to be considered in determining whether a defendant should be released.

See *United States v. Orta*, 760 F.2d 887 (8th Cir. 1985 - *en banc*), which discusses the principles to be applied.

IT IS SO ORDERED this 12th day of February, 2013.

/s/Billy Roy Wilson
UNITED STATES DISTRICT JUDGE

¹Doc. No. 19.